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10/27/20
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine
Electric Utility De-Energization of Power
Lines in Dangerous Conditions.

Rulemaking 18-12-005
(Filed December 13, 2018)

**WILLIAM B. ABRAMS MOTION FOR EVIDENTIARY HEARINGS GIVEN THE NEW
EVIDENCE AND IMPLICATIONS REFLECTED IN THE CAL FIRE KINCADE
REPORT ATTRIBUTABLE TO THE PG&E 2019 PSPS EVENTS**

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October 27, 2020

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William B. Abrams received party status via written ruling on January 24, 2019. In accordance with Rule 11.1(e) of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, William B. Abrams submits this motion in response to the September 21, 2020 “*ASSIGNED COMMISSIONER’S AND ASSIGNED ADMINISTRATIVE LAW JUDGE’S RULING REGARDING THE PROCEDURAL SCHEDULE OF THE ORDER TO SHOW CAUSE PHASE OF RULEMAKING 18-12-005.*” Within that ruling the following was outlined as the criteria for determining whether or not evidentiary hearings would be included within the scope and schedule of this proceeding:

“We find that with the provision of responsive answers to the questions detailed above, evidentiary hearings are not necessary, and the proceeding can move to briefing. Conversely **non-responsive, non-detailed and/or evasive answers on the part of PG&E will likely necessitate evidentiary hearings** and therefore a change to the schedule detailed below.”

Indeed, PG&E has provided non-detailed and evasive answers on key matters related to this Order to Show Cause (OSC) which should be enough to recalibrate the schedule and scope to accommodate evidentiary hearings as evidenced in their non-responsiveness outlined in attachment 2 in their recent response to my motion to move exhibits onto the record.¹ In part, the response from PG&E was as follows:

“I think the bulk of the other requests fall outside the scope of the OSC and might be better addressed in the OII or PSPS rulemaking, and will take more time than we have before we have to submit the joint statement on Monday.”

Even more troubling than these evasive answers are the evasive responses by PG&E regarding the implications of the Cal Fire Kincade Report (case#19CALNU019376).² PG&E’s outright deception to avoid accountability and liability for the Kincade Fire has driven them to avoid key questions around the 2019 PSPS events that are central to this OSC. These actions inside and outside this proceeding are certainly “non-responsive, non-detailed and/or evasive answers” so should be considered a strong basis for schedule and scope revisions. It is true that this report was release after the September 21, 2020 ruling so could not have been considered when evaluating the need for evidentiary hearings associated with this proceeding. However, now that this report has been released to some parties, I urge the commission to consider the implications of this directly related to this OSC.

This independent Cal Fire investigation provides direct evidence regarding how the mismanagement of PSPS activities directly contributed to the cause of the Kincade Fire. Given this, we must also consider if the converse is also true and analyze how perceived financial implications of the Kincade Fire may have caused compounding effects regarding the miscommunication and mismanagement of the PSPS events. As proof of this connection

¹ See “PG&E RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) TO WILLIAM B. ABRAMS MOTION TO MOVE EXHIBITS INTO THE RECORD AND CLARIFICATION ON TREATMENT OF CONFIDENTIAL DATA RESPONSES” Attachment 2, October 20, 2020, pg. 1

² See “California Department of Forestry and Fire Protection Investigation Report”, Case# CALNU019376, Sonoma-Lake-Napa Unit, Gary Uboldi, Fire Captain LNU, Incident Date: October 23, 2019

consider Mr. Johnson's statement right after the Kincade Fire justifying why the power shutoffs were mismanaged:

*"The Kincade Fire is still under investigation — I got that — but one of the things we did was give them the opportunity to actually refill their refrigerator cause their house is still there,"*³

I am concerned that this continued deflection and obfuscation by PG&E to avoid accountability and liability for the Kincade Fire has led them to mismanage and miscommunicate PSPS events which are central to this OSC. If we don't consider these PG&E financial risk avoidance tactics in how we structure this proceeding, we run a serious risk of misdiagnosing the huge management and operational lapses regarding these events. This behavior should be recognized by the commission as "evasiveness" as articulated in the September 21, 2020 ruling and prompt the commission to accommodate evidentiary hearings as a part of this proceeding. Due to this PG&E pattern, it will be near impossible to uncover the answers to the questions posed in the OSC without direct cross-examination of PG&E witnesses. **Avoiding hearings and jumping straight to briefings would represent an unwarranted leap-of-faith in PG&E while all evidence including the evidence in the Cal Fire report points us in a different direction.**

If the commission is unable to accommodate this motion for evidentiary hearings, I strongly urge the commission to consider revising the schedule of this OSC so that the 2019 PSPS implications outlined in the Cal Fire Kincade report are clearly understood. If parties proceed to briefs and the commission proceeds to rule on the issues outlined in the OSC while Cal Fire is recommending multiple criminal felony charges against PG&E for issues related to power shutoffs we run a substantial risk of misdiagnosing PG&E actions relative to the 2019 PSPS events. Consider the following if we continue on the current procedural schedule:

³ See, Time.com, *PG&E CEO Causes Outrage After Saying Struggling California Residents' Houses Are 'Still There' Because of Blackouts*, November 3, 2019, <https://time.com/5717148/pg-e-ceo-california-wildfires/>

- How would the commission reconcile OSC related decisions pertaining to PG&E 2019 PSPS actions while Cal Fire is recommending conflicting criminal charges on those same actions?
- How are parties to assess PG&E 2019 PSPS managerial decision-making and operational tactics if they are not analyzed in the context of the Kincade Fire which is the catastrophic result these mitigation measures were intended to avoid?

I understand the Cal Fire Kincade Investigative Report has not been provided to the majority of parties within this proceeding. However, it is clear that these investigative matters go to the heart of all these OSC questions. None of these OSC issues can be adequately considered given PG&E's propensity for misdirection to avoid financial accountability without evidentiary hearings. The commission needs to keep in mind that there are direct linkages established through the Cal Fire Kincade investigation that show how PG&E power shutoff decisions are not substantially based upon public safety. Despite repeated warnings by Cal Fire and others regarding the abandoned and/or decommissioned infrastructure, the power shutoff decisions in 2019 were apparently still focused on the financial costs to PG&E investors over the public safety risks to our communities. This was particularly true given that the bankruptcy outcomes were largely contingent upon PG&E demonstrating competence around these interrelated issues and showing some degree of safety focus.

While Cal Fire is recommending that PG&E be charged with multiple felony counts for recklessly causing the Kincade Fire, we cannot give PG&E the benefit of the doubt and deference regarding these same actions. Given the new evidence, continuing with the current scope and schedule without evidentiary hearings would constitute undo deference to PG&E. Therefore, I respectfully request that the commission revise the schedule of the OSC to accommodate evidentiary hearings. Alternatively, I ask the commission to revise the schedule and scope of the OSC to include the consideration of the Cal Fire Kincade report which has not yet been made available to parties in this proceeding. I am concerned that if we do not take the time to look at these issues in context, we run the risk of driving in completely the wrong direction in terms of these important OSC issues. More importantly, I am concerned that if we misdiagnose these issues it will leave PG&E even more disposed to unsafe management

practices with the fate of our communities in the balance. Thank you for your consideration of these critical issues.

Dated: October 27, 2020

Respectfully submitted,

/s/ William B. Abrams

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